

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 14, 2011
POSITION: Neutral fiscally; defer to the Natural Resources
Agency

BILL NUMBER: AB 320
AUTHOR: J. Hill

RELATED BILLS: AB 499 (Hill)

BILL SUMMARY: Environmental Quality Act: Determination: Dispute

Existing law establishes appeal procedures for any entity challenging a California Environmental Quality Act (CEQA) decision made by a lead agency.

This bill would require the plaintiff challenging a CEQA decision to name recipients of a project approval identified by the lead agency in its notice of determination or notice of exemption in an appeal. The bill would also clarify the definition of a 'real party in interest' in a CEQA challenge. The change in procedure would only apply to challenges brought after December 31, 2011.

FISCAL SUMMARY

The bill would not have a fiscal impact on the state because a state department, acting as a lead agency under CEQA, already identifies recipients of project approval in its notice of determination or notice of exemption under existing CEQA guidelines. Therefore, the bill would not result in new workload for a lead agency.

Under Section 6(b) of Article XIII B of the California Constitution, whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates. However, the bill requires no reimbursement to the local government as it has the authority to levy service charges, fees, or assessments to pay for the program mandated by the bill.

COMMENTS

The Department of Finance is fiscally neutral on the bill. We defer to the Natural Resources Agency on the policy issue.

Existing law requires the plaintiff challenging a CEQA decision to list all 'real parties in interest' in the appeal filed with the court. However, the notice of determination or notice of exemption made by the lead agency does not necessarily identify all 'real parties in interest'. Consequently, the plaintiff typically names more parties than necessary in an appeal to ensure that all 'real parties in interest' have been named. If the plaintiff fails to name a party, the appeal can be dismissed. The bill would make it harder to dismiss a challenge to a CEQA decision for this technical reason by clarifying that only recipients of a project approval identified by the lead agency in its notice of determination or notice of exemption must be named in an appeal. An appeal could still be dismissed if the recipient of a project approval is not named in the challenge, but the court could extend the time to notify a recipient of a project approval if it determines that the plaintiff made a good faith effort to make the required notifications.

Analyst/Principal (0634) M. Almy	Date	Program Budget Manager Karen Finn	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)**Form DF-43****AUTHOR****AMENDMENT DATE****BILL NUMBER**

J. Hill

June 14, 2011

AB 320

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014	Code
9990/Var Depts	SO	No		-----	No/Minor	Fiscal Impact	-----		0001